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DEON TAYLOR
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Hidden Empire Film Group LP, Deon
Taylor and Roxanne Avent Taylor,

Plaintiffs,

vs.

Mark Chalant Phifer and Hidden Empire
Film Group, LLC,

Defendants.

CASE NO. 2:22-cv-01956-KJM-DB

**PLAINTIFFS' MOTION FOR
ADMINISTRATIVE RELIEF TO
SHORTEN TIME FOR THE HEARING
OF DEFENDANT PHIFER'S SECOND
AMENDED MOTION TO TRANSFER;
ORDER**

Plaintiffs, Hidden Empire Film Group LP ("HEFG LP"), Deon Taylor ("Mr. Taylor") and Roxanne Avent Taylor ("Ms. Avent Taylor") (collectively "Plaintiffs"), hereby bring this Motion for Administrative Relief to Shorten Time for the Hearing of the Second Amended Motion to Transfer Pursuant to 28 U.S.C. Section 1404(a) filed by Defendant Mark Chalant Phifer ("Phifer" or "Defendant"), and hereby request that the Court move the hearing date on such Motion from Phifer's selected date of August 11, 2023 at 10:00 am, to March 31, 2023 at 10:00 am.

On January 20, 2023, Phifer filed an Amended Motion to Transfer Venue. *See* ECF No. 8. On January 27, 2023, the Court issued a minute order advising Phifer that the Amended Motion was defective as it failed to notice the motion for an available law and motion date before

1 Chief District Judge Kimberly J. Mueller. *See* ECF No. 10. On February 7, 2023, Phifer filed
2 his Second Amended Motion to Transfer, and noticed the hearing date for August 11, 2023, the
3 last date available on Chief District Judge Mueller's law and motion calendar. *See* ECF No. 11.

4 This case was filed on October 28, 2022. *See* ECF No. 1. After filing the complaint that
5 day, Plaintiffs inquired of Phifer's counsel by email as to whether Defendants would accept
6 service of the Summons and Complaint, but received no response. *See* ECF No. 13, Affidavit
7 of J. Scott Gerien in Support of Plaintiffs' Opposition to Second Amended Motion to Transfer
8 (Gerien Aff."), ¶ 7. On November 4, 2022, Plaintiffs proceeded to mail both Phifer and Hidden
9 Empire Film Group, LLC, for which Phifer is listed as member, CEO and agent for service,
10 Waivers of Service of Summons at the addresses listed for the parties at the USPTO and the
11 California Secretary of State, respectively. *See* ECF No. 13, Gerien Aff. ¶ 8-9, Exhs. 4, 6-8.
12 Plaintiffs' counsel received copies of certified receipt of the Waivers of Service from the U.S.
13 Postal Service. *See* ECF No. 13, Gerien Aff. ¶ 10, Exh. 9. Neither defendant returned the waiver
14 of service. *See* ECF No. 13, Gerien Aff. ¶ 10.

15 Since Defendants failed to return the Waivers of Service, Plaintiffs were forced to hire a
16 process server to serve the summonses and complaint. *See* ECF No. 13, Gerien Aff. ¶ 11.
17 Plaintiffs' process server successfully served Defendants on December 22, 2022, although Mr.
18 Phifer "tried to refuse service by dropping documents and did not state a reason for refusal."
19 Proofs of Service of Summons, ECF Nos. 5 and 6.

20 On December 29, 2022, Mr. Arrington, Defendants' lawyer, responded to Plaintiffs'
21 counsel's October 28, 2022 email acknowledging service of the summons and complaint on his
22 clients. *See* ECF No. 13, Gerien Aff. ¶ 12. On January 4, 2023, Mr. Arrington emailed Plaintiffs'
23 counsel with a copy of his clients' motion to transfer. *See* ECF No. 13, Gerien Aff. ¶ 12, Exh.
24 10.

25 After Phifer filed his Second Amended Motion to Transfer on February 7, 2023,
26 Plaintiffs' counsel contacted the Court to inquire as to how to shorten the hearing date selected
27 by Phifer given it is over six months from the date of Phifer's filing of his Second Amended
28 Motion to Transfer. *See* ECF No. 13, Gerien Aff. ¶ 14. On February 16, 2023, Chief Judge

1 Mueller's Courtroom Clerk advised Plaintiffs' counsel to request to reschedule the motion
2 hearing by a stipulation and proposed order signed by all parties. *See* ECF No. 13, Gerien Aff.
3 ¶14. On February 16, 2023, Plaintiffs' counsel contacted Phifer by email (Plaintiff's counsel
4 does not have any phone contact for Phifer), and requested that Phifer stipulate to an earlier
5 hearing date of March 31, 2023 to hear his Second Amended Motion to Transfer. *See* ECF No.
6 13, Gerien Aff. ¶14. Plaintiffs' counsel has not received any response from Phifer. *See* ECF
7 No. 13, Gerien Aff. ¶14.

8 Given that this action has already been pending for four months, and given Defendants'
9 reluctance to accept service further delaying Defendants' response to Plaintiffs' Complaint,
10 Plaintiffs respectfully request that the Court shorten the current date for the hearing and schedule
11 the hearing on Phifer's motion for the earliest available hearing date, which appears to be March
12 31, 2023 at 10:00 am.

13 Plaintiffs filed their Opposition to Phifer's Motion on February 21, 2023, so Phifer will
14 have until March 3, 2023 to file his Reply pursuant to the Local Rules. This will allow the Court
15 over three weeks to review the papers prior to the hearing, which Plaintiffs hope will be sufficient
16 time for the Court.

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CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Motion for Administrative Relief be granted.

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Dated: February 21, 2023

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Respectfully submitted,

DICKENSON, PEATMAN & FOGARTY

By

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ORDER

It is ordered that the hearing date for the Second Amended Motion to Transfer Pursuant to 28 U.S.C. Section 1404(a) filed by Defendant Mark Chalant Phifer be shortened and rescheduled from August 11, 2023 at 10:00 am, to **April 28, 2023 at 10:00 a.m.**

DATED: February 28, 2023


CHIEF UNITED STATES DISTRICT JUDGE